

A
L E T T E R
TO THE RIGHT WORSHIPFUL
WILLIAM WYNNE, L.L.D.
CHANCELLOR
OF THE
DIOCESE OF LONDON.

CONTAINING,

Observations on the Facts alledged, the Evidence
produced, and the Sentence pronounced by him, in the
Consistorial Court of LONDON, on the Sixth of December,
1779, in a Cause in which DR. HIND, the late Rector
of St. ANNE, WESTMINSTER, was the Promoter, and
his Curate the Respondent.

By the Rev. THOMAS MARTYN.

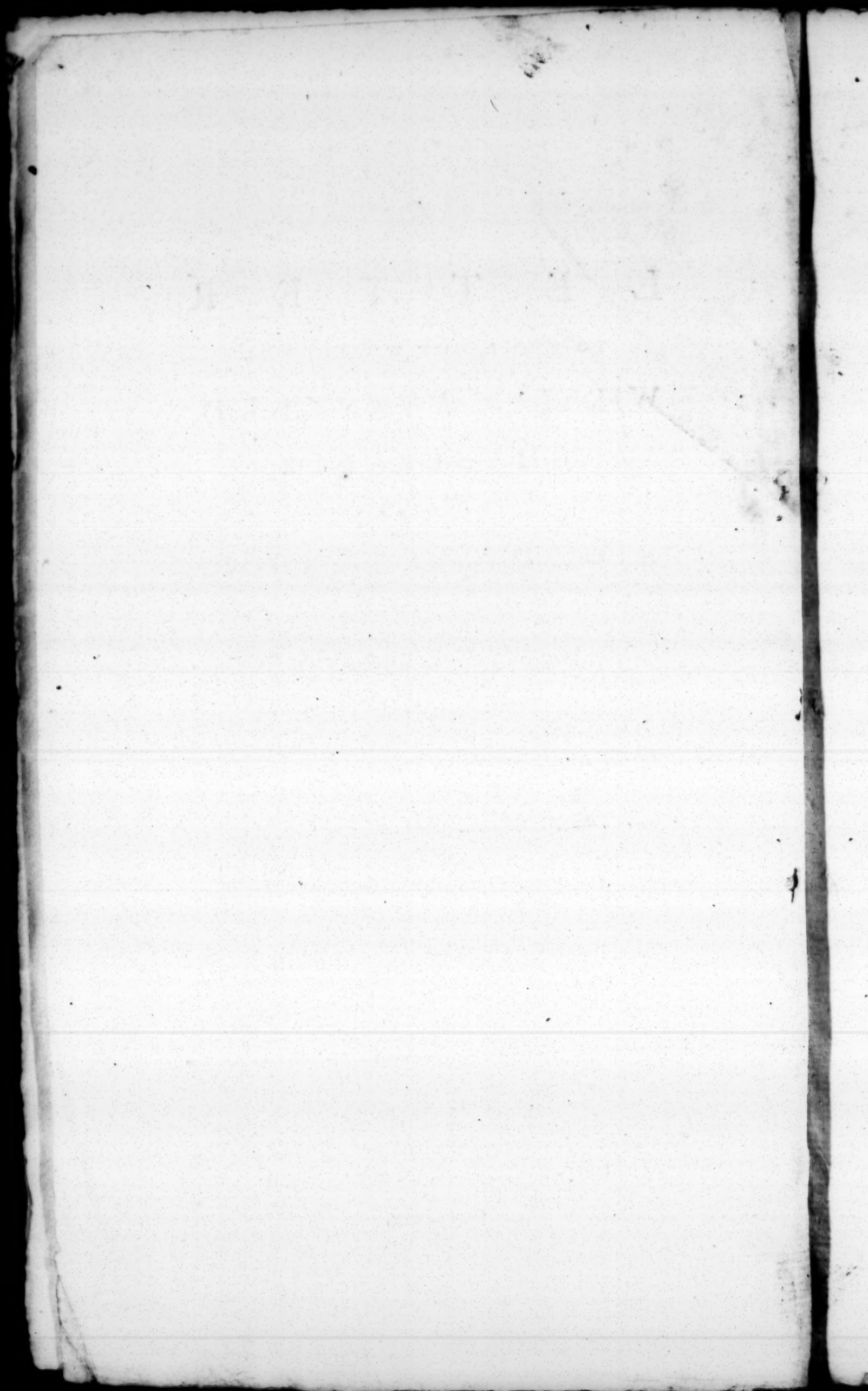
So can I give no Reason, nor I will not,
More than a lodged hate, and a certain loathing
I bear ANTHONIO, that I follow thus
A losing Suit against him.

SHYLOCK.

L O N D O N :

Printed for J. ALMON, opposite Burlington-House, Piccadilly,
and J. BEW, No. 28, Pater-noster Row.

M DCC LXXX.



TO THE
RIGHT WORSHIPFUL
WILLIAM WYNNE, L. L. D.

S I R,

WHEN you reflect on the persecution I have suffered, and the predicament in which I now stand in the Consistorial Court of London; you cannot blame the liberty I take in thus addressing myself to you. My sensibility to the hardships of my case, and my regard to public opinion outweigh every other consideration, and even take from me the power of submitting *silently* to my fate.

To expostulate with their persecutors, and freely to communicate their grievances, is, in this country, the undisputed privilege of the oppressed. It is a privilege, which neither the instruments of civil Despotism,

B

nor



nor the impious hand of ecclesiastic Tyranny, hath been able to annihilate.—The ear of Compassion is ever open to the complaints of the injured : and though redress of grievances is not the certain consequence of popular adjudications,——Consolation, and encouragement, under the greatest evils, are the certain effect of popular favour, and approbation. The liberty of appealing to the common sense of mankind is the bulwark of the most valuable blessings we possess.—Without the consciousness of the public eye, or the apprehension of public censure, there would be no security for the Integrity of a Judge,—the veracity of an evidence,—or even the piety of a Bishop.—If that privilege which enables the meanest subject to drag the most exalted offender before the tribunal of the public was restrained, the idea of LIBERTY would be lost and forgotten, and every curse which is experienced in the atmosphere If the Inquisition be entailed upon us.

Your mind, Sir, is superior to the littleness of professional prejudices; and the goodness of your heart is too well known to ad-

mit any apprehension of injury, from your subserviency to Power; but to ascribe to you infallibility, would be an insult to that modesty which characterized you as an Advocate, and I doubt not will render you amiable, and respectable as a Judge. My appeal from your Sentence, and the liberty of a public address, were resolved upon with great reluctance, though absolutely necessary in the critical circumstances of my situation. And, I am not more solicitous to acquit myself of the charges exhibited against me by my adversary, than to avoid even the shadow of indelicacy or disrespect to you.

Notwithstanding your perfect acquaintance with the case, which is the subject of appeal; and the various dissensions introductory to it, a particular account of the proceedings of the Court where you preside is necessary to the purpose of laying before the Public such a state of my case, as may render it intelligible, and enable the most simple reader to decide upon its merits.

The Suit instituted against me by DR. HIND, in the Consistorial Court of London, was commenced in the month of July, 1777. It consists of thirty-four Articles of complaint, in which I am charged with DRUNKENNESS, ADULTERY, and the most intolerable NEGLECTS and INDECENCIES, in the performance of my duty, as curate of St. Ann's, Westminster.

These articles were argued before DOCTOR BETTESWORTH, your predecessor, and by him admitted. The admission of them was justified upon a maxim, which, however consistent with the *practice*, is not *avowed*, even within the walls of the *Inquisition*. It was said (as you, Sir, must well remember) " THAT I MUST BE CONSIDERED AS GUILTY, TILL I HAD PROVED MYSELF INNOCENT." — The words are engraven on my heart, and at this moment affect me with horror.

The tribute of tenderness universally paid to the memory of the dead, forbids all animadversion upon this terrifying doctrine, which is descended with its author to the grave ;

grave; and I hope, for the honour of humanity, will never be revived by his successors.

The method of acquittal prescribed to me was two-fold :—“ The proof of an *alibi*, or “ the impeachment of the evidence produced “ against me.” Both these, from the nature of the case, were utterly impossible : for the evidences in general were unknown to me ; and the facts to which they have deposed, respecting my neglects of duty, are taken up from *four*, to *seven years* before the commencement of this suit.

The evidence to these charges are TWO NURSES,—TWO * HACKNEY-MOURNERS,—FOUR UNDERTAKERS,—AND A † DEATH-HUNTER. The facts intended to be established by the majority of this respectable group, are confined

* Hackney-mourners are a sort of dependants upon undertakers, who employ them in funeral processions, and in some cases to represent the relations of the deceased. The wages for this service are four-pence for every corpse they attend,

† A death-hunter is the Jackall of an undertaker, and may be seen wherever a street is strowed, or a knocker muffled.

confined to sins of *omission*. The Ladies have deposed, that in the year 1771, they jointly and severally applied at my house, requesting my attendance upon a sick person. That I neglected to comply with their request, which is not pretended to have been delivered to me, or to have come to my knowledge.— That the same application was made to DR. HIND, who *refused* to attend ; alledging that he kept a Curate, and therefore would not be troubled upon such occasions. Fortunately, however, the patient recovered, without the aid of a spiritual physician.—A second instance was stated by the same evidence to have happened in the following year : this case is indeed different in its circumstances, and consequence. The application was made at my house late in the evening, and the patient died at an early hour the next morning. If my services could have soothed his distress I regret his disappointment ; but if any blame arises, it must fall upon the evidences themselves for delaying their application to so critical a period. It is here proper to observe, that, certain hours being daily devoted to this Office, I declined attending it at
any

any other time, excepting in cases of accident or women in child-bed. The multiplicity, and variety of the Parochial Duty, required this regulation, which was established with the sanction of the late Bishop, and the perfect concurrence of DR. HIND: it was besides, universally known to the inhabitants of the Parish.

It is deposed by the other evidences of this class, that at various times in the year 1771, and the three following years, they had attended with funerals at the burial ground of St. Anne, where they have been detained through my remissness from ten minutes to three quarters of an hour; and one of them affirms that he hath even waited for me upwards of an hour.

Notwithstanding the frivolity of the charges and the length of the depositions, there was not a tittle of the evidence that escaped your notice. Interested as I was in the refutation of every Article, very material objections to the testimony which supported many of them, would certainly have remained undetected but for you.—I lament,

ment, Sir, that DR. HIND was not present to have been a witness to the unwearied attention you had bestowed on these depositions; it might have proved a useful lesson to him; for no man who heard you state the evidence, will dare to be the promoter of a cause where you preside, without the consciousness of being supported by such witnesses, as honest men may produce without a blush.

The difficulty that must have occurred in tracing the above evidences to their several retirements *at the end of seven years*, will either prove incontestibly that a constant intercourse and intimacy must have subsisted between them and DR. HIND, or that DR. HIND is well qualified to be enrolled among the Myrmidons of Bow-street.* His ingenuity likewise in *preparing* them for examination to facts of so trifling a nature, and
at

* The astonishing facility with which rogues of all descriptions are traced to their hiding-places, by the emissaries of Sir John Fielding, would in former times have been imputed to MAGIC; and tis not improbable but a few such instances of similar sagacity in men of *profound learning*, as hath here been displayed by Dr. Hind, may even in this enlightened age occasion their being ascribed to *conjuraton*.

at so distant a period, would have merited a particular compliment, if they had been sufficiently guarded against the common error of sanguine evidences, who are very apt in the warmth of their zeal, to prove *too much*.——It may possibly appear from the next articles to be stated, that the learned Doctor himself is rather sanguine in his disposition, and that he hath plunged pretty deeply into the same error with his evidences.

The charges of DRUNKENNESS and ADULTERY which stand next on the catalogue of my offences, and the means used to establish them by *evidence*, would certainly in some cases be attributed to motives which will hardly be supposed to have influenced Dr. HIND. His *known* uprightness, benevolence, and purity of heart, forbid the supposition. Indeed his motive is fully explained in the Preamble to his Articles, which declares this suit to be instituted *in the name of God*, and the object of it to be, *the health of my soul*, and *the reformation of my manners*. To the first of these articles the Doctor produced two of his former evidences; an Under-

C

taker,

taker, and one of the Nurses, who, it seems is occasionally employed as a hackney-mourner. The latter of these evidences hath deposed, that, in November, 1773, she attended a funeral at which I officiated, and as she thought, was in liquor, but assigned no reason for her thinking so. The other in support of the same opinion, declares, that I was not so articulate as usual in reading the service, and that in walking I seemed to reel. Such is the evidence upon which the proof of my propensity to the vice of DRUNKENNESS is rested.

There is no court of judicature in this country in which the Doctor hath not appeared within the last ten years, either as plaintiff, or defendant.—He must consequently be pretty well informed how far the testimony here given would serve his purpose.—In the present case therefore, he must either have been betrayed by his witnesses, or in the ardency of his zeal for the *honour of God, and my reformation*, have forgotten what he owed to his *own* honour, and to my reputation.

In

In his conduct respecting the article of ADULTERY, wickedness and folly are so equally blended, that 'tis impossible to decide which is imputable to him in the greatest degree.

It appears from the Evidence to this charge that a Conspiracy was formed by DR. HIND, —if not against my life, against what is more valuable;---my reputation,---my domestic peace,—and every dependence upon my profession. This scheme of iniquity he communicated to a *confidential Friend*, who, yielding to the powers of Persuasion, promised his assistance in the execution of it, as far as consisted with his own safety.

A Plan of Operation being settled, it was found necessary to engage the assistance of a third person, without letting him however into the secret of their Plot. The Doctor was too zealous in the Cause to be discouraged by so trifling a Difficulty; but (fortunately perhaps for me) too sanguine to reflect, that better Evidence was required to support a *malicious Prosecution*, than to circulate a *slandorous* report.---A day was fixed by a message from Dr HIND, for an interview with his Friend, which was designed

to be the crisis of my destruction. The servant who carried the message was the person intended to be honoured with a commission upon this service. He was therefore informed by his master, that the gentleman, to whom he had been sent, would call on him that evening; that a conversation would ensue to which he wanted the deponent to be a witness, *without being seen*; that he must therefore leave the door of the next room ajar, and (when the gentleman arrived) so place himself behind it, as to *hear* what passed, and to *repeat* it when called upon for that purpose. The Doctor's commands were obeyed; and from a small part of the conversation related by the servant, it appears, that many opprobrious epithets were bestowed upon me by the doctor's *friend*; that he said, "I was a villain, and
 "deserved to be hanged; that I made it a
 "practice to take common prostitutes to
 "my lodgings and to lie with them; and
 "he thought it his *duty* to give this information."

Incredible as it must *appear* to every other person, to you, Sir, it is *known*, that on the evidence of this servant, and on his evidence only

only, the atrocious charge of Adultery was prosecuted against me by Doctor HIND. For he cannot pretend, as in a former instance,* that the officiousness of his Proctor, or the impertinence of his Council, had introduced either this or the foregoing article, without his knowledge or consent; his Proctor hath wisely guarded himself against this manœuvre, by securing his subscription to the allegations; his Council, with becoming delicacy and caution, declined the defence of these articles, candidly confessing, that they had no foundation; they might have added, but in malice of the most malignant kind. With a prudent regard, therefore to their own credit, they avoided the most distant apology for a client, whose

* Amongst his other endeavours to harass and distress me, he filed a bill in chancery, which was brought to a hearing, and fully entered into by his council. The Doctor was present, but finding his seat uneasy, or being impatient for his dinner, he actually stood up, and addressing himself to the court, *disavowed* his cause, and *solemnly* protested that his council had acted without his instructions or approbation. They asserted in reply, that the bill was filed contrary to their judgment or advice; that Dr. H. was deaf to every remonstrance of theirs, and (to use his own words) was determined to have a suit with me in that court.

short

conduct, if their countenances may be credited, they disapproved and abhorred. A short retrospect is here necessary to give a proper impression upon this part of my case.

The *admission* of these articles, and the *heinous charges* they contained, were proclaimed by DR. HIND with a savage triumph. My NEGLIGENCE, DRUNKENNESS, and INCONTINENCE were published in every corner of the town. Neither my professions of innocence, nor the testimony of my private friends, could be expected to silence the rumour, or even to suspend the judgment of those to whom the slanderous tale had been repeated. Words would but faintly describe the anguish of my mind.--- Conscious innocence was unequal to my support,---and the remoteness of the issue almost precluded every consolatory reflection.

My obligations to the parish of St. Anne, in this distressful situation, will ever be remembered with gratitude. Their generous countenance and encouragement, and their expressions of entire approbation, preserved me from despondency, and, in some degree, defeated the malice of my persecutor.

A consciousness of their sentiments, and the effect of disappointed malignity, very soon reduced him from an object of my resentment, to an object of my pity, and contempt. A few *silent* interviews however perfectly disposed me to forgive the numberless injuries he had heaped upon me; and notwithstanding my overtures of peace had been again and again rejected with scorn and insult, I again felt myself inclined to renew them.--My situation with him haunted my reflections.—Yet, occupied as I was with the vexations and inconveniences, which arose to myself from our unhappy dissention, I was not unconcerned for the consequences to *his* family, who are highly worthy of respect, and I can say without affectation, have always possessed my esteem, and regard. His flight from St. Anne put an end to the interviews, which I began to flatter myself (considering the occasions of our meeting,*) might inspire him with sentiments of amity, and incline him to a reconciliation. But this, I am now convinced, could never have been effected by a less powerful interposition of the spirit, than was employed in the con-

* At the sacrament which we administered together.
version

version of St. PAUL; for, if the most amiable passions are not proof against the absence of a *beloved* object, how invincible must be the malignity of that man who retains his enmity in its full vigour, when forever separated from the object of his *hatred*? The reflection is painful, and shall therefore no longer detain me from my subject.

My case, Sir, in its present state, consists of two parts; the one includes the articles upon which I am *acquitted*, the other those upon which I am *condemned*. The offences likewise are distinguished by a similar division; one part of them are *penal*, to the other no *penalty* is annexed.*

The penal articles have been already stated, with the Evidence by which they are supported by the Prosecutor. From each of these a *Canon* was pointed to my breast, charged with Ecclesiastical Thunder.—My situation was indeed perilous.—But, there

* The Coincidence of the Case thus stated, with the Offences thus divided, is worthy observation;—upon every *penal* article I am acquitted; upon the articles which state offences *without penalty* I am condemned.

is

is an Invifible Power which defeats the Purpofes and difconcerts the Councils of the Wicked.

Upon a full and diftinct Investigation of the Evidence to every article which charged me with Negligence or Indecency in the performance of my Duty, you acquitted me of *all* blame. And you did me the farther Juftice, Sir, to remark as highly favourable to me, that your Judgment upon thefe Articles was entirely formed from the Testimony of the Evidences produced againft me. If indeed any other refutation of *ſuch* charges, fupported by *ſuch* Evidences, had been practicable, my Pride would have forbidden the attempt as inconfiftent with the refpect due to myſelf, either in my Private or Professional Capacity.

But, to the Articles which impeached my moral Conduct, a more ſerious notice was due. The *oſtenſible* character of my accuſer, —the atrociousneſs of the offences imputed to me,—and the diſgrace which muſt have followed my Conviction, were confiderations too important to be diſregarded.

D

I might

I might indeed have relied upon the Insufficiency of the Proof, or the great difficulty of establishing what had no foundation in Truth. This would have indicated conscious Innocence, and as it now appears, have secured my acquittal. But I should still have been open to the Insinuations of Malevolence, and have lain at the mercy of every ill-natured commentator upon the Facts alledged. I submitted therefore to the necessity of calling upon my Friends, whose readiness to appear in my favour hath conferred on me the greatest obligation and the highest honour. These Evidences, Sir, are Gentlemen of *Quality*,—*Character*,—and *Fortune*; and their Testimony contains such positive proof of my *Temperance* and *Sobriety*, as could in very few cases be produced. For I may with truth profess, that I have not departed *in any single Instance* of my Life from that abstemious moderation, which is proved by the Depositions of my Friends to be a part of my Character.—To the other charge no *Positive Evidence could* be opposed; but if the *opinion* of Worthy Men, formed from a General Observation of my Conduct, in a long acquaintance, be admitted

mitted as Evidence, it stands refuted.—To this is added the Testimony of many respectable Inhabitants of the Parish; from whose knowledge it was impossible to have concealed such Vices and Excesses as are imputed to me by DR. HIND; and declared under *his Signature* to be *true, public, and notorious*. For having successively served the office of Church-warden, they were certainly very competent Judges of my official Conduct; and the most likely from their constant Intercourse with the other Inhabitants, to have heard *any* Report or Infination, that might have been circulated to the disadvantage of my moral Conduct. From these and the other Evidences to my Character, and, even from some of the most respectable Witnesses for the Prosecutor, you have received the clearest proof that the Vices, or to speak more conformably to the Language of Judicial Proceedings, the *Crimes* prosecuted against me by Dr. HIND are groundless, and, with respect to me, have never existed but in his own Imagination.

Upon these Charges, therefore, you likewise acquitted me; and in the warmth of

disapprobation, which every Just, and Benevolent Mind must have felt in your Situation, you censured the procedure of the Plaintiff, and addressing yourself to his Council, “ Hoped they were not the advisers of this extraordinary Prosecution.”

Before I unfortunately became obnoxious to Dr. HIND, I was honoured with his friendship ; and, but a short time before the commencement of this suit, if occasion had required it, you would have seen him with the foremost of my friends in defence of a character, which he hath since endeavoured by the most cruel and unjustifiable means to asperse.

The Impression of the Evidence which you have heard is still upon your mind ; you are now *assured* of what you must have deemed *incredible* before the publication of the Depositions. I cannot therefore chuse a more favourable opportunity to introduce a declaration which, though equally marvellous, is not less true than many other circumstances of my case, which have received *confirmation*. The extreme virulence with
which

which my adversary hath persecuted me in your Court, and the inhuman perseverance with which he hath endeavoured by other means to *ruin* me in my Character, my Circumstances, and my Profession, must be supposed by you, and every other Reasonable Man, to have originated in some offence given, or some fault committed by me.

But I solemnly protest, that notwithstanding the most pressing intreaties, and endless appeals to his candour (upon every motive that could be expected to move the feelings of a man) for an explanation of his conduct towards me; the Cause of his animosity is at this moment, *to me* a profound secret. And there is no circumstance to which I can refer for assistance, in forming any probable Conjecture upon the subject. He hath, indeed, more than once been so critically circumstanced, that he could not without discredit to himself, avoid a declaration of his Objections to me; yet neither then, nor at any other time, as far as my Enquiries could extend, hath this impenetrable Secret escaped him.

I now

I now come, Sir, to that point of my Case in which my Character,—my Interest,—and the Importunity of my Feelings forbid a silent Submission to the unexpected *Censure*, which is conveyed in the Sentence you have passed upon me.

But previous, Sir, to any Observation upon your Sentence, I shall state the Offences upon which your Sentence is founded. These are exemplified in a variety of Instances in which, to follow the words of the Accusation, I am charged with having Preached, read Prayers, and married *in opposition to, and in defiance of* Dr. HIND. This manœuvre is a Stroke of the most consummate Generalship. If I escape Scylla I must fall upon Charybdis. For the *first* Articles charge me with such intolerable *Negligence* in the Performance of my Duty, that the Doctor hath *occasionally* been obliged to Officiate himself. By the last I am charged with such exemplary diligence in every Branch of the duty, that I left *nothing* for the Doctor to do. Both these, it seems, are highly criminal, and a conviction in either

Case

Case was sufficient to insure my Condemnation.

I cease to be surprized at the Confidence with which DR. HIND hath waded through this iniquitous Prosecution. For you must allow, Sir, that by his manifest carelessness and indifference with respect to proofs, he hath too clearly betrayed his DEPENDENCE; and (not much to the honour of his Gratitude) that in the Contemplation of his own Safety, he hath forgotten to provide a Covering for the *Reputation* of his *Friends*.

The first Instance in proof of my opposition to, and my defiance of DR. HIND is adduced from the 14th of July, 1776, a season of the year which he always devoted to the country. At this time therefore, he had consigned the care of his pulpit to a gentleman who had engaged me on that day to preach. Being *considerably* advanced in the service, DR. HIND appeared, without any body being apprized of his return to town. I could not doubt, if he intended to preach, but some intimation of his intentions

tions would be given me; without which, I could not with any propriety avoid proceeding with the duty I had undertaken. No such circumstance happened. I therefore went immediately from the communion to the pulpit, as had been my invariable practice whenever I performed the whole duty. I neither knew, or suspected Dr. HIND's intentions. If I had employed my thoughts upon the subject, I must have concluded that he would *not* preach. For to avoid associating with me in the duty, he had declined officiating at his own Church, for a considerable time; and till his engagement of a morning preacher, his pulpit was supplied by exchanges, or by the assistance of his friends. It was besides, his custom to retire to the Vestry before his going to the Pulpit; but at this time he remained in his pew. Every appearance therefore was against my conceiving that he meant to preach; of which he might instantly have apprized me by a Message; and every disagreeable Consequence would then have been prevented. Whether his desire to preach, was a sudden thought, or that he really came for that purpose I know not, but the moment I appeared in the Pulpit, he left his
Pew

Pew in great haste, and confusion, and coming to the foot of the stairs required me to descend, and give place to him. A cloud of Witnesses were examined to this fact; and to Prove that I *did not* obey his Summons. Nothing indeed could have been further from my thoughts; for if my Contempt of such Priestly Insolence was censurable, I would daily subject myself, if occasion offered, not seven times only, but seventy times seven to the same Censure.— If there be a Clergyman Existing who would from *principle* have acted otherwise in the same situation, let him for the Punishment of his Meanness be——Curate to DR. HIND.

But, Sir, there are characters in whom the avowal of such a grovelling, despicable Principle, or even a *disposition to enforce* such unmanly Servility would be alarming. If, for instance, the *mind* of a JUDGE were characterized by such meanness of Spirit; or such were his sentiments upon the Doctrine of Subordination, an Implicit Submission to the nod of his Superior, would be its necessary Effect, and all his *discretionary* adjudications at least, be liable to be in-

E fluenced,

fluenced, or controuled, by the capricious Interposition of an Invisible Tyrant.

An Evidence was examined to this Article, which, I cannot suffer to pass unnoticed; he is dignified with the Title of an Esquire, and subscribes his Name ROBERT FREELAND. The Credit, and Commendation you gave to the Evidence of this Gentleman, is the only reason which induces me to distinguish him above the Undertakers, Death-hunters, or any of the sable Phalanx, which composed the first class of DR. HIND's witnesses. And I am inclined to believe, that a review of his deposition will convince you, that he is well entitled to the command of that Corps. My taking Possession of the Pulpit, was proved by a Superfluity of Evidence, without the Examination of MR. FREELAND, whose appearance was evidently meant to give *eclat* to the Cause of his *Employer*; and to add such *Embellishments* as could not be expected in depositions delivered in the plain language of Truth; which, was certainly the case of the other Witnesses to this Article, who were Persons in various Employments about the Church,
and

and therefore, deserve the highest Commendation for the fair, candid and *unbiased* Testimony they have given.

Two of these Evidences who waited at the altar (and consequently were well situated to observe any thing particular either in my appearance or behaviour) have deposed, that I read the Communion Service as usual; that I was perfectly *calm* and *composed*; that having finished the Nicene Creed, and *waited some time*, (which inclined one of these witnesses to conclude that I meant to *remain* at the altar,) I laid the Surplice on the Rails, and proceeded to the Pulpit. —It was rather unfortunate for MR. FREELAND that he could not be apprized of this Evidence, *before* his Examination. For he hath deposed (with more consideration for his Ears than his Conscience) that I “ *seemed* at the latter end of the Communion Service to be in some degree of *agitation*; and *seemed* likewise to be looking earnestly down the middle aisle as if beckoning to some Person there. That having finished the Nicene creed, I *immediately*, and *with more haste than usual*, left the Communion, and went to the

“ Pulpit.” Thus much, Sir, for the *Fairness* and *Candour* which you discovered in his Evidence.

His *Impartiality*, and his great *regard to Religious decency*, and *propriety*, which you likewise remarked, are equally conspicuous in the conclusion of his deposition, in which he tells you, Sir, “ that when I was seated
“ in the Pulpit, and had shut the Door,
“ DR. HIND left his Pew, and acted the
“ scene as before described, that he (the de-
“ ponent) then left the Church, from a de-
“ sire to shew his disapprobation of and
“ to *discountenance* as much as in his
“ Power, such *Indecent* behaviour in MR.
“ MARTYN towards DR. HIND.”——

The decisive Part which he took upon this occasion, was evidently chosen from a Prejudice, and Partiality so very gross; and his deposition is expressed in such sanguine terms, that if his Testimony was *really* of any Consequence in your opinion, you could not without discredit to yourself have admitted his Evidence. For it was impossible for *any* of the Congregation to comprehend or account for the extraordinary proceeding in which the *Sagacious* MR.

FREE-

FREELAND so readily decided upon my Conduct.

As the retirement of this *decent* and *Religious* Gentleman *from* the Church, was confessedly intended to manifest his disapprobation of me, I may fairly be allowed to conclude, that his appearance *at* the Church had no better motive than a desire to shew his Respect to DR. HIND. You can likewise, Sir, if you please, inform this *jewel of an Evidence*, as the Doctor stiled him in the ecstasy of approbation, that by leaving the church in the manner he describes, he transgressed against a statute which subjects such irreverend and indecent behaviour to condign punishment. I have only to observe farther, that he is the only witness that could be prevailed on by his *employer* to *swear*, that by going into the pulpit *I acted in defiance of Dr. Hind*. From this expression I could demonstrate, *if supposition were demonstration*, that his deposition was manufactured from the Doctor's memorandums, though he had not (like another witness, whose memory the Doctor had refreshed) the honesty to confess it. Upon the whole, Sir, I must hope that neither you or I shall
ever

ever be engaged in any Suit, in which it will be necessary to *employ* such an Evidence as *Squire FREELAND*.

The next Offence which falls under the description of *opposition* and *defiance* is my Refusal to be turned back when entering the Desk to read Prayers. I cannot better describe this Scene than by quoting a Paragraph from a News-paper of that Time; in which the Fact is fairly, and truly related, if allowance only be made for the writer's being unacquainted with DR. HIND's Person, and his consequently mistaking him for what he might well have been mistaken, a patient of Bedlam. "On " Saturday last a person who appeared like a " Clergyman, entered St. Anne's Church, " as was supposed in a fit of Insanity: He " proceeded with great precipitation to the " middle aisle, where he met and intercepted " the Curate, who was advancing to begin " the Service. The unfortunate Gentleman " said, it was his intention to officiate himself, and therefore required the Curate " to resign the Surplice. This demand " being refused, he set his back against the " door of the reading desk, and declared, " that

“ that unless *he* was allowed to read, no bo-
 “ dy else should. He was very clamorous
 “ and greatly terrified the Congregation,
 “ which consisted chiefly of Women. For-
 “ tunately however they were soon re-
 “ lieved, for his disorder took a sudden
 “ turn, and in a few minutes moved him
 “ to retire as precipitately as he entered.

“ It was conjectured from some Part of
 “ his Rant, that he *fancied* himself to be the
 “ *Rector of St. Anne*; and as this Idea, if it
 “ dwells on his Mind, may occasion a se-
 “ cond Visit, it is expected that the Church-
 “ wardens will order the Beadles to attend
 “ for the protection of the Congregation,
 “ till it shall be known that the said Lunatic
 “ is properly secured.”

I must beg leave, Sir, to bring to your
 recollection a Circumstance which I think
 material to the Justification of my Conduct
 in these Ridiculous Struggles. It is neither
 given in *Evidence* nor even pretended in
 the *Charge* that any previous notice of his
 Intention to officiate was in either Case
 given me by DR. HIND. If I *had* been ap-
 prized

prized of his Intention I would certainly have given Place without the smallest Inclination to oppose him. This you cannot disbelieve because you have heard, Sir, from the most unexceptionable Testimony, that whenever he hath condescended to inform me of his Intention to undertake any part of my Duty, I have readily acquiesced; and, even upon the *shortest* of such notices have only expressed my wishes that DR. HIND had acquainted me with his intentions sooner.

In stating the Evidence to these Articles, the want of this essential Circumstance to constitute or rather to give the appearance of an *offence*, struck your Observation. But so strongly was you impressed with the Idea, that I *must* have received Notice, because Notice *ought* to have been given me, that you even risked a Sentence upon the supposition. For, after a minute recital of the evidence you pronounced that my preaching, as set forth in the allegation, was fully proved; and that in so doing I had acted in *defiance* of DR. HIND, for “*it must (you said) be supposed that sufficient Notice was given.*” These words were the more remarkable, and indeed the more
4
remarked,

remarked, from your declaration but a few minutes before, that you would state nothing but what was given in evidence. Far be it from me, Sir, to extend the meaning of your words by stretching them upon a rack; it is neither necessary to my purpose, nor a ground upon which I would condescend to justify myself. For whether DR. HIND apprized me of his intentions or not, is, in my apprehension very immaterial in a *legal* view. But as in Point of *propriety*, I have undertaken to defend my conduct, I cannot admit any thing to pass upon *presumption*, which I know to be false in *fact*.—You will perceive, Sir, I have considered the two preceding Articles as distinct from that which follows, because in the latter there are some circumstances which require a particular explanation; though they all rank under the same denomination, and in reality are but the same dish dressed different ways.

You have heard, Sir, from the Evidence of the Clerk, who stands in this cause in a very fair light, that when a state of hostility had succeeded my friendly intercourse with DR. HIND, he was

F employed

employed as the messenger of the Doctor's commands, which were very frequent ; and commonly expressed in such terms, as were more characteristic of the breeding of a Porter, than the Manners of a gentleman. Unable for this reason to hold an *equal* commerce with him, and, being willing to relieve an honest, inoffensive man from an office which was very grievous to him ; I gave him a notice for DR. HIND (which he hath told you he delivered to him) acquainting him, that whilst we continued to be circumstanced as we then were, I would neither listen to his messages, nor pay any regard to his orders ; unless given in writing, or delivered by himself before evidence ; *in which case I would pay all due attention to his commands.* The fact charged in the next allegation is long subsequent to the date of this notice : to the purport of which I found it necessary to adhere strictly upon all occasions, because every scheme that could be devised was employed to entrap me, and (as appears beyond a doubt from the present Suit) every dirty advantage that occurred was used against me. For my own preservation

vation therefore, I determined to secure myself as well against misrepresentation in the *Sender*, as the possibility of forgetfulness or misapprehension in the *Bearer* of a message.

Whatever opposition arose to Dr. HIND from his refusal to comply with so reasonable a requisition, was not the effect of my perverseness, but of his own pride, perfidy, and obstinacy. For his sending in writing what he meant to convey by a Message could not be objected to upon any reason but his desire to conceal a treacherous design; or the consciousness of something wrong in the message itself.

The propriety of my resolution, not to depend upon the fidelity, or the intelligence of a messenger; and the necessity of requiring all notices to be given in writing, or delivered by himself, as the condition of my regarding them, was manifested by a circumstance in the deposition of the clerk, which, to my great astonishment escaped your animadversion; many of the facts to which he deposed were stated from memorandums; some of these he confesses in

the genuine simplicity of an honest mind to have copied from *Memorandums of DR. HIND*, which were given him by the Doctor *previous* to his Examination to *refresh his Memory*.

I am not acquainted with the practice of Ecclesiastical Courts, and therefore state this circumstance only as a *simple Fact*, without presuming to decide whether the admission of such testimony be right or wrong.

The principal evidence to the article which required this Preface hath proved that on the 11th of September, 1776, he received notice of a Marriage to be solemnized the next morning, which he communicated to DR. HIND. That when the Couple arrived I was in waiting at the Vestry, and immediately prepared to perform the Ceremony. Of which (agreeably to the directions he had previously received) he informed the Doctor, who sent a *verbal* message in his usual stile, *forbidding* me to marry them. That I proceeded notwithstanding to the altar, and was followed by the company present. Having taken my place
within

within the rails the Doctor appeared (as the Muse hath painted him upon a more ludicrous occasion)

“ With cassock loose and wig awry,
 “ Fierce anger darting from his eye
 “ And madness in his mein.

The terror which his appearance occasioned in the whole Assembly disposed them to pay a ready obedience to his commands. He ordered them to return to the vestry; where having put on the *outward* garb of modesty and innocence, he again led them to the Altar, where I waited for their return; and when the couple had taken their station, began the ceremony. The Doctor instantly retired,——happy no doubt in the reflection that he had a Curate whose diligence and attention to the duty would leave him at full liberty to pursue his favourite Science——*The Art of Cookery.* †

I

† The Doctor's application hath not been confined to the *Theory* of this Science; for no Cook in Christendom excels him in the *execution* of a small Bill of Fare. Perdreaux à la Dauphine——New College Puddings,——and Carpe à la Financiere,——dressed à la Hind
 are

I must beg leave, Sir, to remind you, that in closing your State of the evidence to the three foregoing articles, you *blended* the Circumstances attending them, and thereby lost that distinction, respecting *Notice*, which I have here stated, and which you will find to be in perfect harmony with the depositions.

Your not perceiving this distinction was probably the occasion of your involving the *three* Articles in the same description. For if this essential difference had not escaped your eye, it was impossible that you could have pronounced me guilty of acting in the *two first instances*, in defiance of a man whose *Intentions*, and *Inclination*, were totally unknown to me. I may presume

are beyond description excellent. He once had it seriously in his contemplation to dedicate a small collection of his choicest Receipts to the Bench of Bishops; but their Lordships not *relishing* the compliment, one of them, being his particular friend, advised him to think of the Court of Aldermen; he turned upon his heel, and from that moment laid aside all thoughts of communicating his discoveries to the public. It is hoped, however, that when this great artist hath "*made his last Puff*," his Epicurean treasure will appear, for the benefit of all *good livers*, in a posthumous publication of his Works.

there-

therefore, that the last Article (but for my ill fortune) would have been the only obstacle to a full and entire acquittal upon every charge. The explanation I have given of my situation with DOCTOR HIND (which perfectly accords with the evidence) and the reasons assigned for my disregard to his *verbal* orders would, I trust, have removed this solitary objection, and have given you the opportunity of enjoying the highest pleasure of a benevolent mind,---the deliverance of an injured Man from the merciless hand of his Oppressor.

But, as "the race is not alwas to the swift, "nor the battle to the strong," so Judicial determinations are not always on the side of *right*. I experience and lament this *Effect*, but dare not investigate its *Cause*. It would lead me into a large field, and endanger my falling into the same error which I should labour to develop. Consoling myself, therefore, with the hope of redress at a future day, I shall proceed to weigh the sentence you have pronounced, in the scales of Reason,---Justice,---and Law.

That

That I have stated truly such articles of the Libel as were the objects of your Judgment—the evidence which supported them—and your observations upon the several parts of the case, will not, I believe, be disputed. Your opinion upon the whole is thus recorded in the words of the sentence.

“ The Judge having heard Proofs read,
 “ and the Advocates and Proctors on both
 “ sides,---pronounced, decreed, and declared,
 “ that the promoter had proved that part of
 “ the Articles given in this cause, which
 “ charged, the reverend THOMAS MARTYN
 “ with having as Curate of the Parish of St.
 “ Anne, Westminster, acted in defiance of, and
 “ opposed DR. HIND, the Promoter, *in the*
 “ *execution of his office* of rector of the said
 “ church;---and pronounced that the said
 “ THOMAS MARTYN had acted in defiance
 “ of, and opposed DR. HIND *in the exe-*
 “ *cution of his said office, by preventing*
 “ him from preaching, reading of prayers,
 “ and performing of marriage of persons
 “ offering themselves to be married in the said
 “ church, and that therefore the said THO-
 “ MAS MARTYN *ought* to be removed from
 “ the curacy of the said church of St. Anne,
 “ Westminster, and condemned the said Tho-

MAS MARTYN in costs, but decreed, that the same should be moderated, in regard that Dr. HIND, the Promoter, *had failed in proof* of the NEGLECT OF DUTY, --- IMMORALITY, --- and ADULTERY, charged by the Articles on him the said THOMAS MARTYN.

The Cause in which this Sentence was pronounced, is composed of various Charges, of which some are denominated *criminal*, because the offences therein stated are transgressions of some STATUTE or CANON, which subjects such offences to a specific penalty; or, if no penalty be specified, are admitted to invest the Judge with a discretionary power to inflict such punishment as in his Judgment is proportioned to the offence. To these bounds the legislature hath, with great wisdom and humanity, confined the power of a Judge. For if his opinion were permitted, *independent* of any *written law* to decide controversies, or to deal out Punishments, there would be no ground upon which the right of property could be asserted, or Innocence defend itself. A violation of an established and promulged law, is the only foundation upon which a criminal charge can be supported, or punish-

ment be inflicted. For however blameable a man's Conduct may be in a moral View, or *in the opinion of a Judge*, yet if his offence is not described in any written law, he cannot *legally* be condemned. Such I conceive to be the nature of the allegations upon which you have pronounced against me ; for if the offences therein stated are described in any law existing, it may be presumed, that in justification of your own proceeding, you would have pointed out the particular statute or canon by which they are subjected to the disgraceful censure and the heavy penalty which you have inflicted. But in this, Sir, you are not chargeable with any omission, because it is no part of the duty of a Judge to perform *impossibilities*.

There is, besides, Sir, a circumstance of error in your sentence, which must have escaped you unobserved. The offence upon which you have condemned me, is neither *charged* in the *allegations*, nor *proved* in the *depositions*.---I will not quibble upon words,---nor militate against a *reasonable construction*. But I should be wanting in justice to myself, if I suffered even my respect for you to hide so flagrant an error from the eye of the public

public, at whose bar I now stand upon my defence. The *libel* charges me with preaching, reading prayers, and marrying *in opposition to, and in defiance of*, Dr. HIND. The *sentence* condemns me for having opposed him *in the execution of his office*, by preventing his preaching, reading prayers and marrying. To you, Sir, I need not point out the important difference in the nature of these offences; but for the information of others, who may do this letter the honour to peruse it, I am bound to explain the difference.

By a statute of the first Mary, and by the Act of Toleration, it is punishable, either by the Ecclesiastical or Civil Power, to vex, molest, disturb, disquiet, let, or otherwise maliciously or contemptuously to misuse a Preacher any ways authorized; or any parson, vicar, curate, or lawful priest, employed in the *performance* of any Divine office.

But these Statutes are applicable only to the Minister *actually officiating*; if, therefore, they have suffered any violation, the offence is only imputable to Dr. HIND;---who must doubtless think himself under great

obligations, Sir, to you, for endeavouring to correct in *your sentence* what is defective in *his accusation*. But though your amendment of the charge *approximates* my offence to the meaning of a penal act, they do not even yet sufficiently *coincide* to authorize your quoting that act in support of the sentence you have pronounced.

Admitting, however, *your Construction* of the allegations, and viewing my offences by the light in which *you* have placed them, your condemning me in costs, *seems* contrary to every idea of *equity*, by which I apprehend the determinations of all Ecclesiastical Courts are *professedly* governed. For if the Articles upon which you have condemned me had been exhibited *alone*, I believe there is no doubt but they would instantly have been rejected. If I am right in this opinion, they ought to have stood in the same predicament when detached from the other Articles, as if they never had been connected.

The want of a *penal* Statute or Canon, did not leave the Promoter without a remedy, if I persisted in opposing him; for a *monition* from the Ordinary would either
have

have put an end to the opposition, or have erected into a canonical offence, what, without such monition did not fall under the cognizance of a court;---and this proceeding would have indicated a proper sense of injury, and a *reasonable* desire of redress. In the present case it betrays the diabolical principles of persecution, and revenge: it would, besides, have been more consistent with the method prescribed for the reformation or correction of an offending brother, in a book to which some respect is reasonably due from a *Christian teacher*. As this letter may possibly fall into the Doctor's hand, I will transcribe the passage for *his* future instruction.

“ If thy brother shall trespass against thee,
 “ go and tell him his faults, between thee
 “ and him alone; if he shall hear thee then
 “ thou hast gained thy brother.——But if
 “ he will not hear thee, then take with thee
 “ one or two more, that in the mouth of two
 “ or three witnesses every word may be
 “ established.——And if he shall neglect to
 “ hear them, tell it unto the church; but if
 “ he neglect to hear the church, let him be
 “ unto thee as an heathen man and a
 “ publican.”

The

The *want of obscurity* in this text must have placed it *below* the Doctor's notice, or he could not have committed so gross a mistake, as to *begin* where he ought clearly to have *ended*.

Another objection to your award of costs arises from the great disproportion between the number of the articles *proved*, and those in which you decree the Promoter to have *failed* in proof; upon the latter no costs are in equity due; and the claim which your sentence hath given him upon the former, are greatly over-balanced by the expence, in which my defence against a volume of *frivolous, base, and groundless* charges hath involved me; and to which upon my acquittal, I am *equitably*, if not lawfully, entitled from the Promoter.

But the objection, Sir, which principally induced me either to enter upon a public justification of myself, or to appeal from your sentence, is the unmerited *Censure* you have *recorded* against me.---A desire to live in *peace*, might have inclined me to have submitted without appeal to the inconvenience

venience of a pecuniary loss; but my desire to live in *credit* forbids my submission to a Sentence, which leaves no room even for the voice of candour to plead for me.

I had reason to expect, Sir, from the opinion you expressed upon the Charges of DRUNKENNESS and ADULTERY, that your Sentence would contain such exemplary censure on the prosecutor, as would have deterred every future wretch like himself, from suffering his Imagination to be occupied for a moment, by such wicked, and iniquitous designs, as he hath here attempted to execute.

I had great reason likewise, to flatter myself, both from the nature of the case, and from your *professed disposition to do me Justice*, that my acquittal from such charges as were to a demonstration false, would have been recorded in terms suitable to the *claims of innocence*, and the *dignity of a Court*.---I must therefore be insensible, Sir, to read without Indignation the *merely* negative acquittal by which I am exonerated from the heaviest offences, which an Ecclesiastical
Court

Court could have prosecuted against me ; and which ought, Sir, in justice to me,---for your own Credit,---and for the honour of the Court in which you preside, to have been pronounced,—*groundless*, and *malicious*.

If such of the charges as are required by *law* to be established upon the testimony of *two* Witnesses had been proved to your satisfaction by the evidence of one *only*, you might with great propriety have pronounced my escape to have been the consequence of *a failure in Proof*. But if from the evidence produced it appeared that there was no foundation for the Charges prosecuted against me ; your Sentence, Sir, falls *very* short of that justice which is due to a man whose Judge acquits him from a *conviction* of his Innocence.

Every offence charged in the libel is imputed to me by implication, with *greater* authority in the *Sentence* you have passed, than by the *libel* itself. For, the notority, of DR. HIND's character, contributed greatly to weaken *his* accusations; but the slightest
sanction,

sanction, Sir, from you, is a stamp of credit which will enforce belief. Your declaration that *I ought to be removed from the Curacy of St. Anne*, without actually removing me, authorizes a construction of the Sentence, which in point of opinion, must operate against me, without producing or I presume being *intended* to produce any judicial Effect.

Its particular application to the Articles which state my *opposition* to DR. HIND, is more likely to be overlooked, than observed; and in such case your opinion will be considered as delivered *generally* upon the Libel; and to imply a regret that you were restrained by the lenity of the Law, from from inflicting upon me in its full extent the punishment I deserved. Indeed the same construction must follow it in every view; for, no man living can suppose that the instances of *opposition* to DR. HIND, upon which you have decided, could in your *judgment* deserve the punishment, which, according to your *Sentence*, ought to be inflicted. Besides, Sir, *opposition* and *defiance* are Terms which are no ways applicable to

H

any

any part of my Conduct: For, being ORDAINED to the Cure, I was relatively connected with its duties, *if* not equally with the promoter, at least in a degree more than sufficient to give me an indisputable *right* to officiate.

But I have detained you already, Sir, too long to enter upon a new Question; I shall therefore take my leave with assuring you that both my prejudices and my opinion are very strongly in your Interest, and that I am no more inclined to suspect *your* Integrity than to doubt the continence or dispute the orthodoxy of his Grace of Canterbury. I shall likewise take the liberty to conclude that if this Cause could undergo a re-hearing before you, the sin of *opposition* would appear in a diminished light: That *if* you should *still* think me blameable, some allowance would in candour be admitted for the feelings of a man under every degree of oppression, injury and insult. And, that the Articles which have been *proved* to be groundless, and malicious, would be dismissed with an admonition very applicable to the Prosecutor; “ THOU HYPOCRITE!

(51)

“ first cast out the BEAM that is in thine
“ own Eye, then shalt thou see clearly to
“ pull out the MORE that is in thy Brother’s
“ Eye.”

I am, Sir, with great respect,

Your very humble Servant,

THOMAS MARTYN,

Meard-street,
Jan. 6th, 1780.

F I N I S.